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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RED HAT INC.,

Plaintiff,

v.

VIRTAMOVE CORP.,

Defendant.

Case No. 5:24-cv-04740-PCP

**DECLARATION OF AMY E. HAYDEN
IN SUPPORT OF DEFENDANT
VIRTAMOVE'S UNOPPOSED
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE A SUR-REPLY**

1 I, Amy E. Hayden, declare as follows:

2 1. I am counsel for VirtaMove Corp. in the above-captioned action. I provide this
3 declaration in support of VirtaMove's Sur-Reply to Red Hat's Reply in Support of its Motion for
4 Jurisdictional Discovery. I have personal knowledge of the facts set forth herein, and if called upon
5 to testify, could and would testify competently thereto.

6 2. On November 7, 2024, I participated in a discovery-related conference of counsel
7 in connection with *VirtaMove Corp. v. International Business Machines Corp.*, No. 2:24-cv-
8 00064-JRG (E.D. Tex.). For VirtaMove, my colleague Daniel Kolko and I attended; for IBM, Kyle
9 Calhoun, Grant Rigdon, and Sarah Mikosz, all from Kirkland & Ellis, attended. During that
10 conference of counsel, I informed Mr. Calhoun, Mr. Rigdon, and Ms. Mikosz that the dispute that
11 VirtaMove's predecessor AppZero Software Corp. had with a company called App First, Inc. was
12 not a patent dispute, but rather was a copyright dispute that resulted in a lawsuit being filed in the
13 Southern District of New York in the early 2010s.

14 3. Attached as Exhibit A is a true and correct copy of VirtaMove's proposed sur-reply.

15 4. Attached as Exhibit B is a true and correct copy of the complaint filed in *AppZero*
16 *Software Corp. v. AppFirst, Inc.*, No. 1:11-cv-09009-SAS, Dkt. No. 1 (S.D.N.Y. Dec. 9, 2011).

17 5. Attached as Exhibit C is a true and correct copy of an excerpt from the deposition
18 of Susan Cameron, dated October 10, 2024, from *VirtaMove Corp. v. International Business*
19 *Machines Corp.*, No. 2:24-cv-00064-JRG (E.D. Tex.). I redacted attorneys' eyes only labels on
20 each page because the excerpted pages do not contain information that VirtaMove considers
21 confidential.

22 6. Attached as Exhibit D is a true and correct copy of excerpts from the deposition of
23 Susan Cameron, dated October 10, 2024, from *VirtaMove Corp. v. Amazon.com, Inc. et al.*, No.
24 2:24-cv-00030-ADA-DTG (W.D. Tex.).

1 I declare under the penalty of perjury that the foregoing is true and correct. Executed at
2 Portland, Oregon on November 14, 2024.

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4 /s/ Amy E. Hayden
5 Amy E. Hayden
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